

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX.
FT. WORTH DIVISION

2005 MAY 27 PM 12:39

CLERK OF COURT

HON. ELAINE L. CHAO,
SECRETARY, UNITED STATES
DEPARTMENT OF LABOR,
Plaintiff,

v.

ALLIED PILOTS ASSOCIATION,
Defendant.

4-05 CV-338 Y
CIVIL NO.

COMPLAINT

Plaintiff, Elaine L. Chao, Secretary, Department of Labor alleges as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action under Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (Act of September 14, 1959, 73 Stat. 519, et seq., 29 U.S.C. §§ 481-484, hereinafter referred to as "LMRDA" or "the Act").

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 29 U.S.C. § 482(b).
3. Venue lies in this district pursuant to 28 U.S.C. § 1391(b) and 29 U.S.C. § 482(b).

PARTIES

4. Plaintiff, Elaine L. Chao (Chao), is the duly appointed Secretary of Labor, United States Department of Labor. Chao is authorized to bring this action under section 402 of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (29

U.S.C. § 482(b)).

5. Defendant, Allied Pilots Association (APA), is a national labor organization, and at all times relevant to this action has been an unincorporated association maintaining its principal office at 14600 Trinity Boulevard, Suite 500, City of Fort Worth, County of Tarrant, State of Texas, within the jurisdiction of this Court. APA can be served with process at the above business address.

FACTUAL ALLEGATIONS

6. The APA is a national labor organization engaged in an industry affecting commerce within the meaning of sections 3(i), 3(j) and 401(a) of the Act (29 U.S.C. §§ 402(i), 402(j) and 481(a)), at all times material to this cause of action.

7. The APA, purporting to act pursuant to its Constitution and Bylaws, conducted an election of officers on June 22, 2004, which election was subject to the provisions of Title IV of the Act (29 U.S.C. §§ 481-484).

8. By letter dated July 1, 2004, to the national's appeal board, the complainant, Mark L. Hunnibell (Hunnibell), a member in good standing of the APA, protested the APA's election.

9. By decision dated September 16, 2004, the Appeal Board denied the protest.

10. Having exhausted the internal remedies available, and having received a final decision, Hunnibell filed a timely complaint with Chao, the Secretary of Labor on October 15, 2004, in accordance with section 402(a)(1) of the Act, 29 U.S.C. § 482(a)(1).

11. By a series of letters dated October 27, 2004, December 20, 2004, March 1, 2005, April 7, 2005, and April 22, 2005, the APA agreed that the time within which Chao may bring suit with respect to the APA's election be extended to May 27, 2005.

12. Pursuant to section 601 of the Act (29 U.S.C. § 521), and in accordance with section 402(b) of the Act (29 U.S.C. § 482(b)), Chao investigated the complaint and, as a result of the facts shown by her investigation, found probable cause to believe that violations of Title IV of the Act (29 U.S.C. §§ 481- 484) had occurred in the conduct of the APA's June 22, 2004, election that may have affected the outcome of the election and that had not been remedied at the time of the institution of this action.

COUNT 1
VIOLATION OF THE ACT: SECTION 401(a)

13. Section 401(a) of the Act (29 U.S.C. § 481(a)) was violated during the conduct of the aforesaid election when the APA failed to hold the election by secret ballot in that members cast their votes over the Internet in such a manner that the voters and their individual ballot choices could have determined.

14. The violation of section 401(a) of the Act (29 U.S.C. §§ 481(a)) found and alleged above, may have affected the outcome of the APA's election for the offices of President, Vice President, and Secretary-Treasurer.

PRAYER FOR RELIEF

Chao, therefore, requests this Court:

(a) Declare the APA's election for the offices of President, Vice President, and Secretary-Treasurer to be null and void;

(b) Direct the APA to conduct new elections for such offices, under the supervision of Chao;

(c) For the costs of this action; and

(d) For such other relief as may be appropriate.

Respectfully submitted,

PETER D. KEISLER
ASSISTANT ATTORNEY GENERAL

RICHARD B. ROPER
UNITED STATES ATTORNEY



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Attorney

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and Labor-Management Division

U.S. Department of Labor

SHARON E. HANLEY
Counsel for Labor-Management Programs

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of the Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
 HON. ELAINE CHAO, DEPARTMENT OF LABOR

2005 MAY 27 PM 12:41
 U.S. DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
 FORT WORTH DIVISION

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

ALLIED PILOTS ASSOCIATION

4-05 CV-338 Y

County of Residence of First Listed Defendant
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Tami C. Parker, Assistant United States Attorney
 801 Cherry Street, Unit No. 4, Burnett Plaza Suite 1700
 Fort Worth, Texas 76102-6882
 Telephone: 817.252.5200; FAX 817.978.6351

Attorneys (If Known)

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 Telephone: 202.496.0500; FAX: 202.496.0555

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF Incorporated or Principal Place of Business In This State ☒ 4 ☐ 4 DEF
 Citizen of Another State ☐ 2 ☐ 2 DEF Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5 DEF
 Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF Foreign Nation ☐ 6 ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus. <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input checked="" type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.)

Do not cite jurisdictional statutes unless diversity.)

Title IV of the Labor-Management Reporting and Disclosure Act. Violation of the Act, when Defendant failed to hold a secret ballot election for Officers

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** **CHECK YES only if demanded in complaint:** **JURY DEMAND:** ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

May 27, 2005

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____